

### Remarks

Applicant notes that claim 21 was allowed, for the reason that "element 'g' in conjunction with elements 'f' and 'h' when combined with elements 'a-e' is a unique combination of elements that is neither taught nor suggested by the prior art." The Examiner stated, "Regarding claim 27, the applicant made no argument," and correspondingly, the rejection of claim 27 was maintained. In the response of August 6, 2001, however, Applicant stated, "For the same reasons cited above [referring to arguments presented in support of claim 21], the Examiner's rejection of independent claim 27 under 35 U.S.C. § 103 in view of Komara and Reed is improper."

Claim 27 is an apparatus claim, intended to be coextensive in scope with method claim 21. Both claims recite what is referred to in the Specification as the "switching method" embodiment of Applicant's invention (see p. 6, final paragraph, and Figure 5 and the accompanying text at p. 9, second paragraph). Briefly, the switching method contemplates a single set of transceivers, one allocated to each frequency assigned to the cell. All transceiver are connected through a switching matrix to one of three sector antennae, nominally with 1/3 of the transceivers allocated to each sector. When the loading in one sector exceeds a threshold, a channel allocated to another sector may be re-allocated to the loaded sector, and the corresponding transceiver switched into the loaded sector's antenna.

While a precise correspondence of all elements between claims 21 and 27 is not possible given the method and apparatus character of the claims, respectively, Applicant has amended claim 27 herein to conform in scope with claim 21 to the greatest extent possible. Specifically, element "d(iii)" has been added to claim 27, to match element "h" of claim 21 – that the transceiver corresponding to the reassigned channel is disconnected from the "borrowed-from" sector and connected to the "borrowing" sector. Furthermore, element "d(i)" has been amended to correct an erroneous reference to

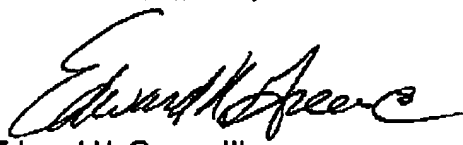
"cell" where "sector" was intended, and to explicitly recite that the base station controller determines the loading in each sector, to conform precisely to element "f" of claim 21. Element "g" of claim 21 – the crux of Applicant's arguments in the above referenced Response, and which the Examiner states in the Advisory Action were found persuasive – is substantially met by element "d(ii)," as amended herein.

Claim 21 and amended claim 27 stand or fall together. Applicant respectfully suggests that it is facially inconsistent to allow claim 21 as "neither taught nor suggested by the prior art," while rejecting claim 27 on the same combination of prior art references.

Entry of the amendments to claim 27 is requested pursuant to 37 C.F.R. § 1.116(a). Entry of the amendments and the concomitant allowance of claim 27 will greatly simplify the issues remaining in the case for appeal, by removing references Komara, Reed, and Lea as ground for rejection, and limiting the appeal to pending claims 1 and 6.

Respectfully submitted,

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### **Version with Markings to Show Changes Made**

#### **Amendments in the Claims**

In accordance with 37 C.F.R. § 1.121(c), the following versions of the claims as rewritten by the foregoing amendment show all the changes made relative to the previous versions of the claims.

27. (Amended) A base station for a sectored cell in a cellular communication system comprising:

- a. a plurality of antennas for broadcasting and receiving signals in respective sectors of the cell;
- b. a transceiver array including a plurality of transceivers for broadcasting and receiving signals on the channels allocated to the cell;
- c. a switching circuit connecting the transceiver array to the antenna in each sector of the cell for switching the transceiver inputs and outputs to respective antennas;
- d. a base station controller operatively connected to the transceiver array and switching circuit for:
  - i) monitoring channel utilization in each [cell] sector of the cell, and determining the loading in each sector;
  - ii) [switching] reassigning a channel from a first sector in a cell to a second sector in the same cell when the loading in the first sector reaches a predetermined threshold; and
  - iii) switching the transceiver corresponding to the reassigned channel from the second sector to the first sector.